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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8
9 Andrew N. Milsap,) No. CV 04-1454-PHX-RGS
10 Plaintiff,)
11 vs.) **ORDER**
12)
13 The Travelers Insurance Company, et al.,)
14 Defendant.)
15 _____)

16 Pending before the Court are Defendant The Travelers Insurance Company's
17 ("Travelers") Motion to Dismiss [Doc. # 29] and Motion for Summary Disposition [Doc. #
18 30]. For reasons discussed below, the Court will grant both motions.

19 On July 16, 2004, *pro se* Plaintiff Andrew N. Milsap filed a complaint against
20 Defendants the Arizona Republic and its insurance carrier, Travelers, alleging claims of
21 discrimination and personal injury. On September 9, 2004, service was executed upon the
22 Arizona Republic but was service was returned unexecuted upon Travelers. [Doc. # 4,5] On
23 September 20, 2004, Defendants' counsel filed a Motion to Dismiss with respect to the
24 Arizona Republic. [Doc. # 6]

25 Thereafter, on December 14, 2004, Travelers waived service of summons and
26 complaint. [Doc. # 17] Following the completion of briefing on the Motion to Dismiss, oral
27 argument was held on January 11, 2005. [Doc. # 18] On January 14, 2005, the Court
28 granted the Motion to Dismiss the action with respect to the Arizona Republic, effective 90

1 days from the date of the filing of the order unless prior thereto, Plaintiff filed an appropriate
2 amended complaint curing certain jurisdictional defects asserted by the Defendant. [Doc. #
3 19]

4 On April 8, 2005, Plaintiff filed a Motion to Amend Complaint. [Doc. # 22]
5 Thereafter, the Arizona Republic filed a Response [Doc. # 23], and Plaintiff filed a Reply
6 [Doc. # 24]. On October 27, 2005, the Arizona Republic filed a Motion to Enforce Court
7 Order, asking the Court to enforce its January 14, 2005 Order and grant the Republic's
8 Motion to Dismiss because Plaintiff had not cured the jurisdictional deficiencies in the case.

9 On February 24, 2006, the Court denied Plaintiff's Motion to Amend, granted the
10 Republic's Motion to Enforce Court Order, and granted the Republic's Motion to Dismiss
11 Defendant The Arizona Republic. [Doc. # 26]

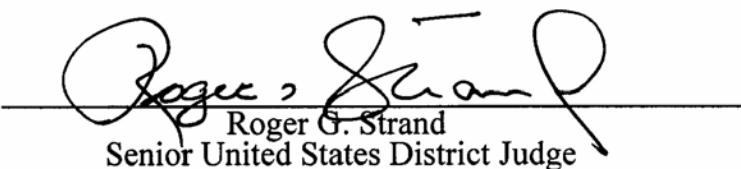
12 On October 3, 2006, the Court held a hearing regarding Defendant Travelers' status
13 with respect to the case. At said hearing, the Court ordered Travelers to file an Answer or
14 responsive pleading within two weeks of the hearing. Accordingly, on October 17, 2006,
15 Travelers filed a Motion to Dismiss, arguing that the Court lacked jurisdiction and that
16 Plaintiff failed to state a claim upon which relief could be granted. After Plaintiff failed to
17 file a responsive pleading within the applicable time, Travelers filed a Motion for Summary
18 Disposition of Defendant's Motion to Dismiss.

19 In light of Plaintiff's failure to respond to Travelers' Motion to Dismiss or otherwise
20 prosecute this matter against Travelers, Travelers is entitled to summary disposition of its
21 Motion to Dismiss. In addition, the Court has reviewed said motion on the merits and finds
22 that Travelers is entitled to dismissal as a matter of law. Accordingly,

23 **IT IS ORDERED** granting Travelers' Motion for Summary Disposition. [Doc. # 30]

24 **IT IS FURTHER ORDERED** granting Travelers' Motion to Dismiss. [Doc. # 29]

25 DATED this 19th day of December, 2006.

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Roger G. Strand
Senior United States District Judge